



Agenda Date: 11/20/01
Agenda Item: 3C

STATE OF NEW JERSEY
Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

IN THE MATTER OF COMCAST)	<u>CABLE TELEVISION</u>
CABLEVISION OF NEW JERSEY, LLC -)	
TOMS RIVER (REBUILD) FOR APPROVAL)	
OF THE FILING OF FCC FORM 1240, AN)	ORDER ADOPTING STIPULATION
ANNUAL UPDATING OF THE MAXIMUM)	
PERMITTED RATE FOR THE REGULATED)	
BASIC CABLE SERVICE USING THE)	
OPTIONAL EXPEDITED RATE PROCEDURES))	DOCKET NO. CR01050283

(SERVICE LIST ATTACHED)

BY THE BOARD:

On May 1, 2001, Comcast Cablevision of New Jersey, LLC – Toms River (Rebuild) (“Petitioner”) filed Federal Communications Commission (“FCC”) Form 1240, Docket Number CR01050283, seeking approval by the Board of Public Utilities (“Board”) for an annual rate adjustment in its maximum permitted rate resulting from an adjustment for inflation, channel changes, programming costs and copyright fees pursuant to the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 *et seq.*, and provisions of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 *et seq.*

The Board, at its public meeting on January 10, 1996, in Docket Number CX95120636, approved the implementation of Optional Expedited Rate Procedures for the processing of certain filings made with the Office of Cable Television (“OCTV”). The intended purpose of these procedures is to grant final rates as quickly as possible to any cable company that chooses this process. In the spirit of cooperation based on the principles of Alternate Dispute Resolution (“ADR”), the discovery content is limited, thereby reducing the timeframe for settlement.

Petitioner chose to pursue its filing with the Board through the approved procedures. To that end, a pre-transmittal conference was held on May 31, 2001 and attended by representatives of the Petitioner, the Division of the Ratepayer Advocate and Board Staff. Petitioner agreed to waive its Office of Administrative Law (“OAL”) litigation rights for this matter. It should be noted that Petitioner’s waiver was a knowing, voluntary and intelligent waiver of its litigation rights at the OAL and that the waiver did not constitute a circumvention of the FCC rules nor did it affect Petitioner’s right to appeal in that forum.

Petitioner notified its customers of the rate changes by way of a newspaper announcement informing them of their opportunity to submit written comments to the Board for a period of thirty

days. The notice appeared in the Observer on September 23, 2001. During this time, no comments were received as a result of the public notice.

Upon review by Staff and the Ratepayer Advocate of the supporting documentation, schedules and other discovery requests, a settlement conference was held on June 8, 2001. On November 1, 2001, the parties entered into a Stipulation of Settlement.

The Board has reviewed the Stipulation and FINDS it to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation of Settlement (attached hereto) as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

The Board FURTHER ORDERS that should this cable system, or any part thereof, merge, and/or migrate to another system, be upgraded and/or rebuilt, its ownership or control be otherwise sold or transferred to another entity, the basic service tier rate that will be eliminated or superseded as a result of the merger, migration, upgrade, rebuild, sale or transfer must be "trued-up" [47 C.F.R. § 76.922 (e) (3)]. The final true-up for the affected system, or any part thereof, should be calculated on FCC Form 1240 and begin where the last true-up period ended on its prior FCC Form 1240. This true-up calculation shall be filed with the Board when all the affected subscribers are being charged the rate resulting from the merger, migration, upgrade, rebuild, sale or transfer and may be filed in conjunction with the annual rate adjustment cycle (Form 1240) established as a result of said merger, migration, upgrade, rebuild, sale or transfer.

The cable system, or any part thereof, may be subsequently deregulated as a result of a finding by the Board, the FCC or other party of competent jurisdiction, that this system, or any portion thereof, is subject to effective competition. Should that be the case, the last basic service rate established as a result of a prior FCC Form 1240 or such subsequent rate calculation method as may be heretofore adopted by the Board, the FCC or other party of competent jurisdiction, prior to the deregulation of any rate that is now or may in the future be subject to the Board's

jurisdiction, must be trued-up for the period of time that the affected rates were subject to regulation by the Board.

DATED: November 20, 2001

BOARD OF PUBLIC UTILITIES
BY:

(signed)

CONNIE O. HUGHES
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

ATTEST:

(signed)

HENRY M. OGDEN
ACTING BOARD SECRETARY

IN THE MATTER OF
COMCAST CABLEVISION OF NEW JERSEY, LLC – TOMS RIVER (REBUILD)
FCC FORM 1240 USING THE
OPTIONAL EXPEDITED RATE PROCEDURES

DOCKET NUMBERS: CR01050283

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